



United States-Canada Trade and Economic Relationship: Prospects and Challenges

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Summary

The United States and Canada conduct the world's largest bilateral trade relationship, with total merchandise trade (exports and imports) exceeding \$596.9 billion in 2008. The U.S.-Canadian relationship revolves around the themes of integration and asymmetry: integration from successive trade liberalization from the U.S.-Canada Auto Pact of 1965 leading to North American Free Trade Agreement (NAFTA), and asymmetry resulting from Canadian dependence on the U.S. market and from the disparate size of the two economies.

The economies of the United States and Canada are highly integrated, a process that has been accelerated by the bilateral U.S.-Canada free trade agreement (FTA) of 1988 and the NAFTA of 1994. Both are affluent industrialized economies, with similar standards of living and industrial structure. However, the two economies diverge in size, per capita income, productivity and net savings.

Canada is the largest single-country trading partner of the United States. In 2008, total merchandise trade with Canada consisted of \$335.6 billion in imports and \$260.9 billion in exports. In 2007, China displaced Canada as the largest source for U.S. imports for the first time. While Canada is an important trading partner for the United States, the United States is the dominant trade partner for Canada, and trade is a dominant feature of the Canadian economy. Automobiles and auto parts, a sector which has become highly integrated due to free trade, make up the largest sector of traded products. Canada is also the largest exporter of energy to the United States. Like the United States, the Canadian economy is affected by the transformation of China into an economic superpower. The United States and Canada also have significant stakes in each other's economy through foreign direct investment.

Both countries are members of the World Trade Organization (WTO) and both are partners with Mexico in the NAFTA. While most trade is conducted smoothly, several disputes remain contentious. Disputes concerning the 2006 softwood lumber agreement are under arbitration and Canada has sought WTO consultations over country-of-origin-labeling requirements. In addition, the United States has placed Canada on its Special 301 priority watch list over intellectual property rights enforcement issues. Canada has also vigorously protested the implementation of the 'Buy American' provisions of the economic stimulus package.

The terrorist attacks of 2001 focused attention on the U.S.-Canadian border. Several bilateral initiatives have been undertaken to minimize disruption to commerce from added border security. The focus on the border has renewed interest in some quarters in greater economic integration, either through incremental measures such as greater regulatory cooperation or potentially larger goals such as a customs or monetary union. Congressional interest has focused mostly on trade disputes, and also on the ability of the two nations to continue their traditional volume of trade with heightened security on the border. This report will be updated periodically.

Contents

The Economies of the United States and Canada.....	1
The Trade and Investment Relationship	3
Autos	4
Energy	6
China.....	6
Trade Deficit	7
Services	8
Investment	9
Canadian FDI Policy.....	11
Disputes.....	12
Softwood Lumber	13
Country of Origin Labeling	16
Buy American Stimulus Provisions	16
Intellectual Property Rights	17
Agriculture Subsidies.....	17
Culture	17
Security and Trade.....	18
Western Hemisphere Travel Initiative (WHTI).....	18
Action Programs and Initiatives.....	19
Prospects and Policy Options.....	21
NAFTA Plus	22
Security Perimeter.....	23
Customs Union.....	23
Common Market or Economic Union.....	23
Monetary Union	24

Figures

Figure 1. Merchandise U.S. Trade Deficit with Canada.....	9
Figure 2. FDI Flows 2001-2007	10
Figure 3. FDI Stock 2001-2007	11
Figure 4. Net Inward FDI Flows from All Countries: 2001-2007	12

Tables

Table 1. Selected Comparative Statistics, 2008.....	2
Table 2. U.S. Merchandise Trade With Canada, 2008.....	7

Contacts

Author Contact Information	24
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The Economies of the United States and Canada

The economies of the United States and Canada are highly integrated, a process that has been accelerated by the bilateral U.S.-Canada free trade agreement (FTA) of 1989 and the North American Free Trade Agreement (NAFTA) of 1994. The two countries are natural trading partners, given their geographic proximity and their (partial) linguistic and cultural similarities. Because 80% of the Canadian population lives within 200 miles of the U.S. border and due to the impediments of Canadian geography, trade with the United States is often easier and less expensive than Canadian inter-provincial trade. Both are affluent industrialized economies, with similar (though not identical) standards of living.

However, the economies of the two countries diverge in numerous ways. First, the U.S. economy dwarfs that of Canada. U.S. gross domestic product (GDP) is 9 ½ times that of Canada in nominal terms and 11 times as large in terms of purchasing power parity.¹ (See Table 1.) This large and historic disparity has presented opportunities and challenges for Canada. NAFTA provides Canada with a large market for its exports at its doorstep, however it has also led to increased import competition for small-scale Canadian businesses. The Canadian economy is also disproportionately impacted by a U.S. economic slowdown or changes in the bilateral exchange rate.

In the 10 years from 1999, the average annual real GDP growth rate has been slightly higher for Canada (3.0%) than for the United States (2.6%). Per capita average annual growth rates have shown a similar, yet smaller trajectory (1.9% v. 1.6%). Canadian per capita income, in terms of PPP has remained relatively constant at around 83% of U.S. per capita income. The persistent per capita income gap has proven worrisome to Canadian policymakers as it raises questions about Canadian productivity and competitiveness.

In terms of sectoral components of GDP, the United States and Canada are similar. Over two-thirds of both economies are devoted to the services sector, although the sector is relatively larger as a percentage of GDP in the United States (79.6% -71.5%). The manufacturing sector's composition of GDP has fallen in both countries over time, but it is still relatively more important to the Canadian economy (29.4%-29.2%). Agriculture makes up the remaining 2.3% of the Canadian economy and 1.2% of the U.S. economy.

In terms of savings and investment, Canada and the United States have diverged. Canada's experience with fiscal profligacy in the 1970s and 1980s caused the country to eschew deficit spending in the 1990s. Until the present stimulus budget, Parliament consistently passed balanced budgets from 1997, and Canada has lowered its ratio of public debt-to-GDP from 100% of GDP in 1996 to 61.3% of GDP in 2007. The United States has a lower ratio of debt-to-GDP, but it has been trending upwards, reaching 38.7% of GDP in 2008, after years of deficit spending.

¹ Purchasing power parity (PPP) is a economic theory which holds that exchange rates between currencies are in equilibrium when their purchasing power is the same in each of the two countries. PPP is useful for cross-country GDP comparisons because its measurement excludes exchange rate volatility and speculation.

Table I. Selected Comparative Statistics, 2008

Indicator	United States	Canada
GDP		
Nominal PPP (billion US\$)	14,265	1,296
Nominal (billion \$)	14,265	1,502
Per Capita GDP		
Nominal PPP (\$)	46,950	38,830
Nominal (\$)	46,950	45,010
Real GDP Growth	1.1%	0.5%
Recorded Unemployment Rate	5.8%	6.2%
Exports (%GDP)	13.0%	34.9%
Imports (%GDP)	17.7%	33.3%
Sectoral Components of GDP (%)		
Industry	19.4%	29.2%
Services	79.6%	71.5%
Agriculture	1.2%	2.3%
Current Account Balance (% GDP)	-4.7%	0.6%
Public Debt/GDP	38.7%	61.3%

Sources: Economist Intelligence Unit; U.S. Census Bureau; Bureau of Economic Analysis; Statistics Canada.

Some of the differences between U.S. and Canadian economic performance may be traced to the differences in the role and structure of the government in economic life. While both countries can be identified as generally free-market capitalist economies, at times Canada has adopted more interventionist economic policies. Prior to the FTA with the United States, Canada protected her small-scale manufacturing enterprises that produced solely for the domestic market with high tariffs. While these plants provided jobs to Canadian workers, they resulted in higher prices for Canadian consumers and led to a relatively inefficient allocation of national economic resources. Canada has also provided its citizens with a more generous social safety net including a government-run national health service. Canadian citizens pay higher taxes to receive these benefits, but private industry is relieved of providing health care coverage.

A different relationship between the Canadian federal government and the provinces also affect economic dynamics. Canadian provinces have relatively more power vis-a-vis Canada's federal government than that of states with the U.S. government. For example, natural resources are under the policy control (and in many cases, ownership) of Canadian provincial governments. In the softwood lumber dispute, provincial ownership and management of forests have made the provincial governments key players in the negotiations. Alberta's vast energy reserves may also cause friction between it and other "have-not" provinces without similar resource endowments. The Canadian federal government attempts to provide a uniform level of services across the provinces by providing "equalization" payments to poorer provinces, however, these payments are a source of continuous squabbling between the provinces, on one side, and the federal government.

The Trade and Investment Relationship

Canada is the largest single nation trading partner of the United States. In 2008, total merchandise trade with Canada was \$596.9 billion (a 6.2% increase over 2007), consisting of \$335.6 billion (7.2% over 2007) in imports and \$260.9 billion (5.0% over 2007) in exports.² In 2008, more than \$1.6 billion in goods crossed the border each day. Trade with Canada represented 18.0% of U.S. total trade in 2008, with Canada purchasing 20.7% of U.S. exports and supplying 16.0% of total U.S. imports last year. While Canada is an important trading partner for the United States, the United States is the dominant trade partner for Canada. The United States supplied 52.2% of Canada's imports of goods in 2008 and purchased 77.7% of Canada's merchandise exports.

While the absolute value of trade continues to increase between the two nations, each nation's share of trade with the other has decreased in recent years. As a share of U.S. total trade, trade with Canada dropped from 20%-18% between 2003-2008. Conversely, trade with the United States dropped from 74% to 66% of Canada's global trade in the same period.

Trade is a dominant feature of the Canadian economy. While in the United States, the value of trade (exports + imports) as a percentage of GDP was about 23.8% in 2008, the comparable figure for Canada was 57.6%. Canada's goods exports totaled \$457.4 billion in 2008, which represented 30.4% of Canadian GDP and exports to the United States alone represent 23.7% of Canadian GDP. A further 14.2% of Canadian GDP was used to purchase U.S. goods. In 2008, Canada imported \$408.2 billion from all destinations, 27.2 % of its GDP. Canada is relatively more exposed to the world economy and to the fortunes of other economies, foremost the United States, than most other countries.

Autos and auto parts are the top U.S. exports to, and second largest imports from, Canada. Computer equipment, electrical equipment, engines, turboengines, recorded media, optical equipment and precision instruments are other major U.S. exports. Primary U.S. imports from Canada outside the automotive sector are energy (natural gas, petroleum products, electricity), engines, aircraft equipment, wood, and paper products.

That the United States and Canada trade substantial volumes of the same goods bespeaks the economic integration of the two economies. This integration has been assisted by trade liberalization over the past 40 years, beginning with the Automotive Agreement of 1965 (which eliminated tariffs on shipments of autos and auto parts between the two countries), through the Canada-U.S. Free Trade Agreement of 1989 (FTA), and NAFTA. Under the FTA (which was incorporated into NAFTA), bilateral tariffs except for certain agricultural products were phased out over a 10-year period culminating in 1998.

² Trade figures are expressed in terms of general imports (customs value), and total exports (FAS value) as compiled by the U.S. International Trade Commission. Canadian figures are from Statistics Canada.

Canada's Economic Stimulus Program

Canada entered into recession in the 4th quarter of 2008. Canada was relatively late in responding to the economic downturn. Following the re-election of the Conservatives on October 14, 2008, the government issued its autumn economic statement, which maintained a balanced budget, did not include new stimulus measures, but, as noted above, did include such politically divisive measures as the end of subsidies for political parties.³

After the reconvening of parliament in January 2009, the government introduced a C\$258.6 billion budget, which calls for C\$40 billion in stimulus over the next two years. The stimulus consists of a package of income tax cuts, extending employment insurance (EI) benefit extensions, job retraining, 'hard' infrastructure spending, tax credits for home renovation, retrofits for social housing, and investments in First Nation's health programs.⁴ In all, the C\$40 billion represents a stimulus of about 1.5% of GDP in the first year and 1.1% in the second year. Increased spending represents approximately 72% of this package and tax cuts contribute the remaining 28%. While a general consensus developed on the need for government stimulus spending, some criticized the budget proposals as a 'mish-mash' of proposals that did not address what is perceived to be Canada's long-term structural problems of lagging productivity and competitiveness.⁵

The budget also marked a return to deficit spending for Canada after 12 successive budgets in balance or surplus. The budget contemplates a deficit of C\$34 billion the first year, and a total of C\$81 billion in borrowing over five years before the budget returns to surplus in 2013. The return to deficit spending, while acknowledged as necessary by most of the political spectrum to combat the severe economic recession, was not undertaken lightly. Prior to the 'austerity' budget of 1995, Canada had wracked up 27 straight years of deficit spending. At its peak in 1996, Canada's public debt represented 101.6% of GDP, and government sector spending reached 53.6% of GDP in 1993. Realizing this course was unsustainable, the Liberal government of then Prime Minister Jean Chretien and his Finance Minister Paul Martin embarked on a financial austerity plan using such politically risky measures as cutting federal funding for health and education transfers, applying a means test to those eligible for Seniors Benefits, and cuts in defense. A nationwide goods and services tax was introduced to help close the gap. Under this budget discipline, the government submitted a balanced budget in 1998 and a political consensus emerged not to resort to deficit spending, at least until now.

The elimination of tariffs and the reduction of nontariff barriers have contributed to the process of specialization, as each country is able to produce goods for a larger continent-wide market. Thus, firms are able to improve productivity through increased economies of scale and coordinated production. Such specialization led to increased bilateral trade, much of it in intermediate products. One study estimated that about 45% of U.S.-Canadian trade was intra-firm trade, reflecting the substantial integration of the two economies and contributing to increased efficiency and competitiveness of firms on both sides of the border.⁶

Autos

Integration of the U.S. and Canadian automotive industries is an example of the benefits of specialization and economies of scale. Before the mid-1960s, each country's industry produced for its own market, due largely to tariffs imposed by both countries. Canadian auto firms (mostly subsidiaries of U.S. firms) were considerably less productive than their U.S. counterparts because Canadian firms produced a variety of differentiated products for a relatively small domestic market in an industry characterized by economies of scale.

³ The economic statement serves as a mid-year budget update and is subject to a no confidence vote.

⁴ "Tories to Aggressively Implement Budget Spending Measures," *The Hill Times*, February 2, 2009.

⁵ See, for example, "A Tale of Two Stimulus Packages," by Jeremy Leonard, *Policy Options*, March 2009.

⁶ World Trade Organization, Trade Policy Review: Canada, Report by the Secretariat, October 6, 1996, (WT/TPR/S/22), p. 6.

The Automotive Agreement of 1965 (Auto Pact) between the United States and Canada began the process of integration by eliminating tariffs on shipments of autos and auto parts between the two countries. Thus, each country's industry could specialize in a smaller number of products and use longer production runs. Coordinated production on both sides of the border increased significantly, as did bilateral automotive trade. Coordinated automotive production has raised living standards in both the United States and Canada, and has strengthened the global competitiveness of producers on both sides of the border.

Motor vehicles, vehicle parts, and engines made up 17.8% of U.S. exports to Canada and 14.8% of U.S. imports from Canada in 2008 (see **Table 2**). Although vehicles and parts flow in both directions, the primary trajectory is that of U.S. parts exported to Canada for assembly, and vehicles exported back to the United States. U.S. vehicles imports from Canada plummeted 24% to 1.7 million vehicles in 2008. U.S. vehicles exports to Canada fell 7.7% to 986,000 in 2008. One notable feature of this trade is the increasing composition of trade in so-called 'new domestic' manufactures, foreign-owned companies with manufacturing and assembly plants in the United States and Canada. While the value of Canadian "Big 3" exports to the U.S. has declined 32% since 2000, the value of the primarily Japanese new domestics has increased by 45%, and in 2006 these new domestics made up 31.5% of Canadian imports into the United States. The value of Canada's imports of U.S.-produced new domestics has also increased by about 1/3 from 2000, and made up about 21% of the value of U.S. vehicle exports to Canada in 2006.⁷

While Canada suffers from productivity problems in other sectors of its economy, its automotive plants are among the most competitive in North America. Part of the cost advantage traditionally had been due to the weak Canadian dollar, but that advantage diminished with the loonie's rise to parity with the U.S. dollar in 2007-8. Another major competitive advantage is Canada's national health system, which reportedly relieves Canadian automakers of approximately \$1,400 in costs per vehicle.⁸

The global economic recession that has hit the U.S. domestic auto industry especially hard is also having an effect on Canada, especially Ontario. Approximately 20% of the plant capacity of the domestic Big Three (General Motors, Ford, and Chrysler) is located in Canada. The government of Canada and the Ontario provincial government have sought to match in proportion to production capacity the loans given by the U.S. government to General Motors and Chrysler. The Canadian authorities provided \$4 billion in bridge loans to GM and Chrysler to match the \$17.4 billion provided by the Bush Administration in December 2008. Following Chrysler's bankruptcy on April 30, 2009, the United States and Canada promised a \$10.5 billion package of assistance based on a 3:1 ratio contribution: \$8.08 billion from the United States and 2.42 billion from Canada and Ontario. In return, the U.S. government will hold 8% share of the restructured company and Canada and Ontario will own 2%. GM faces an end of May deadline to submit its own restructuring plan. Ford, which also has extensive Canadian operations, has not asked either government for loans thus far.

⁷ "Canada's Changing Auto Industry," by Francine Roy and Clerance Kimanyi, *Canadian Economic Observer*, May 2007, figures extrapolated from Table 2, p. 3.7.

⁸ "Ontario to Overtake Michigan As Auto Kingpin," *The New York Times*, November 29, 2004.

Energy

Canada is the largest supplier of energy (including petroleum, natural gas, and electricity) to the United States. The value of oil and natural gas imports increased 47% between 2007-8, however, the volume of oil imports in terms of barrels shipped increased only 3.8%, the amount of cubic meters of natural gas decreased by 0.8%, and the volume of liquid natural gas imported fell by 48%. In 2005, oil and gas displaced motor vehicles as the United States' largest import from Canada. Canada has traditional sources of crude oil in Alberta and off the coasts of Newfoundland and Nova Scotia. As the price of crude oil increases, petroleum extracted from Albertan oil sands are becoming a major part of Canadian energy supplies. Oil sands are surface mined, and the oil is extracted through pressurization. The process itself is energy intensive, water dependent, and not all that environmentally friendly. However, it is estimated that the potential oil extracted from the oil sands represent reserves second only those held by Saudi Arabia.⁹ Provisions of the FTA and NAFTA assure U.S. supplies of energy from Canada by prohibiting the imposition of minimal export prices or export taxes, and by restricting the imposition of supply restrictions.

China

China's emergence as an economic superpower and the United States response has become a major issue in the United States. In Canada, political discussion has been more muted, but some of the same issues are present. China is now Canada's second largest trading partner, and is growing rapidly. However, most of this increase is import-based. In 2008, Canada imported \$39.9 billion in goods from China, primarily a typical array of labor intensive products: apparel, footwear, consumer electronics, toys, and telecommunications equipment. Meanwhile, Canada's exports to China totaled \$9.9 billion of primarily natural resources: forest products, metals, petroleum, and agriculture, but also aviation equipment and telecommunications equipment.

Canadians and Americans have similar concerns over the loss of manufacturing jobs in import-competing industries to low-wage producers such as China. Perhaps more important, from the Canadian perspective, is the concern that Canadian producers will be pushed out of the U.S. market by low-wage competition. One study found that while such a threat is real, China now competes more with Mexico in labor intensive sectors than does Canada in the U.S. market.¹⁰

China's near unquenchable thirst for natural resources to fuel its economic boom has led it to attempt to purchase natural resource assets abroad, including a controversial bid for Unocal in the United States. Two Chinese oil companies, including CNOOC, have purchased stakes in Alberta's oil sands projects, and a pipeline is to be constructed in conjunction with PetroChina from Alberta to the West Coast. An attempted Chinese purchase of Noranda (now Falconbridge), one of the world's largest zinc, nickel, and copper concerns, by China Minmetals was called off in 2004 due to rising share prices. However, the proposed deal did spark concern about purchase of Canadian resources by a subsidiary of the Chinese Metals Ministry and about the company's human rights and Communist party ties.¹¹

⁹ For more information on the oil sands, see CRS Report RL34258, *North American Oil Sands: History of Development, Prospects for the Future*, by Marc Humphries.

¹⁰ Wendy Dobson, "Taking A Giant's Measure: Canada, NAFTA, and an Emergent China," C.D. Howe Institute, September 2004.

¹¹ "Canada Welcomes China's Cash - Hospitality Toward Investments Run Counter to Mood in U.S.," *Wall Street* (continued...)

Table 2. U.S. Merchandise Trade With Canada, 2008

Export Category	Amount billion\$ (%chg from 07)	Import Category	Amount billion\$ (%chg from 07)
Motor Vehicle Parts	23.5 (-15.5)	Oil and Gas	92.4 (47)
Motor Vehicles	23.0 (-9.1)	Motor Vehicles	36.2 (-22.1)
Agriculture/ Construction Machinery	9.8 (17.6)	Petroleum and Coal Products	14.9 (20.4)
Special Classification	9.6 (0.2)	Motor Vehicle Parts	13.5 (-21.5)
Iron/Steel/Ferroalloy	8.1 (22.3)	Nonferrous Metal and Processing	10.4 (-4.0)
Computer Equipment	8.1 (0.4)	Pulp, Paper, Paperboard	10.2 (2.3)
General Purpose Machinery	8.0 (6.6)	Special Classification	10.1 (14.2)
Petroleum / Coal Products	7.6 (71.1)	Returned/Reimported	9.1 (-1.4)
Chemicals	6.3 (3.1)	Aerospace Products and Parts	7.9 (-5.7)
Oil and Gas	6.7 (59.2)	Aluminum	7.7 (-0.2)
Aerospace Products/Parts	6.4 (8.9)	Basic Chemicals	7.6 (10.2)
Resin, Synthetic Rubber, artificial fibers	6.3 (2.5)	Iron/Steel/Ferroalloy	7.0 (31.3)
Navigation/Electrical/ Medical/Control Instruments	5.9 (3.8)	Resin, Synthetic Rubber, artificial fibers	5.8 (1.6)
Plastics Products	5.2 (9.1)	Pesticides, Fertilizer, Agriculture Chems.	5.2 (74.1)
Fabricated Metal	5.1 (6.0)	Other General Purpose Machinery	5.0 (6.4)
Miscellaneous Manufactured Products	5.1 (4.1)	Pharmaceutical/ Medicines	4.9 (-1.5)
Semiconductors	4.9 (1.6)	Plastic Products	4.6 (-3.3)
Engines/Turbines/ Power Transmission Equipment	4.7(-1.1)	Agriculture and Construction Machinery	4.1 (3.9)
Converted Paper Products	4.1 (4.2)	Sawmill and Wood Products	3.7 (-32.1)
Waste/Scrap	4.0 (-33.8)	Communications Equipment	3.4 (-1.5)
All Other	97.8 (7.3)	All Other	72.2(1.2)
Total	\$260.9 (5.0)	Total	\$335.6 (7.2)

Source: U.S. International Trade Commission. (Figures are NAIC-4, Total Exports and General Imports.)

Note: May not total due to rounding.

Trade Deficit

The U.S. merchandise trade deficit with Canada widened to \$74.7 billion in 2008 from \$64.7 billion in 2007. While imports generally grew faster than exports in the free trade era, increasing

(...continued)

Journal, July 15, 2005.

from 3.5% of the value of total trade in 1991 to 15.3% in 2005, this trend reversed in 2006 and the ratio fell to 11.5% in 2007 before ticking up to 12.5 in 2008. The persistent trade deficit with Canada has been blamed on many factors. Up until 2003, the deficit was attributed, in part, to the weakness of the Canadian dollar. The loonie had steadily depreciated in value in the decade prior to 2003. Worth approximately \$0.84 at the time of the U.S.-Canada Free Trade Agreement in 1989, the currency briefly sank to \$0.63 in 2002. Thenceforth, the loonie steadily appreciated to an average of \$0.71 in 2003, \$0.75 in 2004, \$0.83 in 2005, \$0.88 in 2006, and \$0.93 in 2007. The loonie reached parity for the first time in 31 years on September 20, 2007, before peaking at an intra-day high of \$1.10 on November 7. From that date, the loonie crossed the parity line 3 times in its relation to the U.S. dollar. However, from May 2008, the currency has gradually declined, in part due to the end of the commodity and energy boom and the onset of the recession, trading in May 2009 at \$0.83.

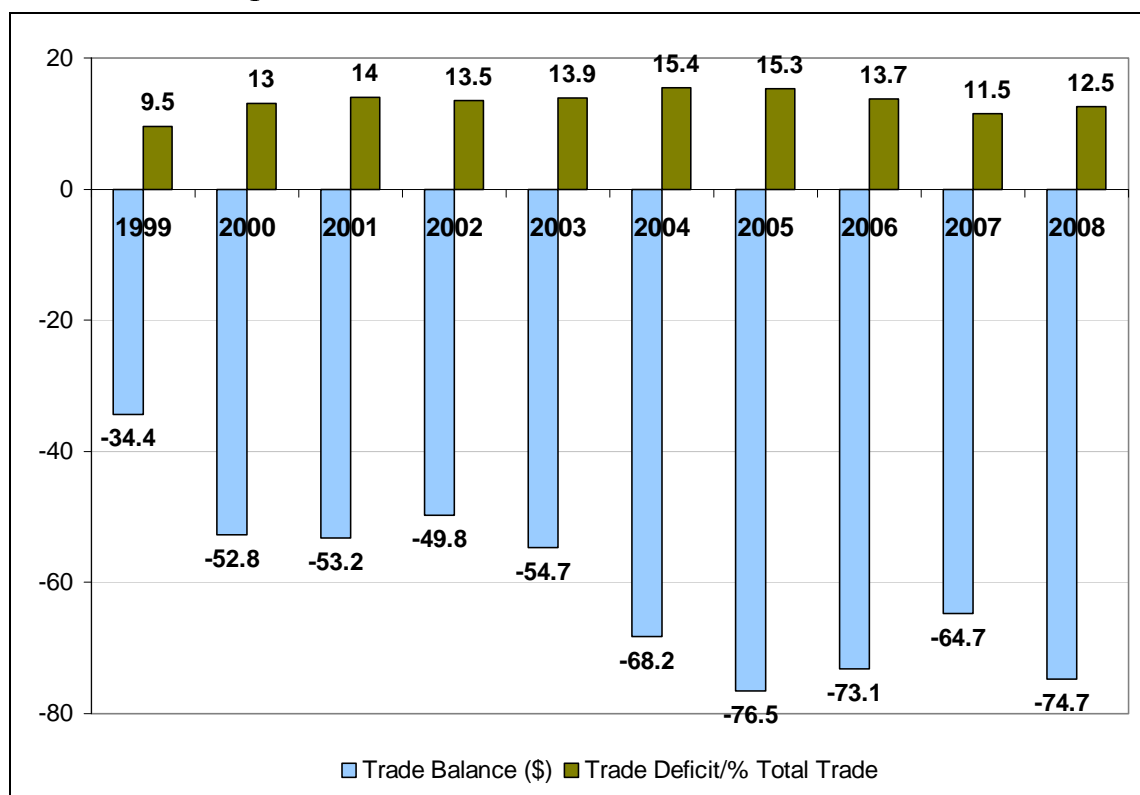
While the depreciating U.S. dollar—which makes cheaper U.S. goods more attractive on the Canadian market—began to have an ameliorative effect on the U.S.-Canadian trade deficit in 2006 and 2007, the spike in energy and commodity prices reversed that trend in 2008. For Canada, the loonie's appreciation until mid-2008 took a toll on its manufacturing industry centered in Ontario and Quebec. However, the subsequent depreciation as it has been accompanied by the contraction of the world economy has not had a perceptible effect in rejuvenating that sector.

Services

The United States also conducts a substantial services trade with Canada. In 2007, Canada was both the second largest consumer of U.S. services and the second largest supplier of services to the United States after the United Kingdom. That year, the United States exported \$42.9 billion worth of private services to Canada and imported \$24.6 billion, for a surplus of \$18.3 billion. Services exports to Canada accounted for 9.0% of U.S. service exports overall; imports represented about 7.2% of total U.S. service imports. In 2008, U.S. service exports represented 57.1% of Canadian service imports, and Canadian service exports to the United States represented 54.7% of total Canadian service exports.¹² Commercial services made up 47.8% of overall two-way Canadian service trade in 2008 and travel and tourism totaled another 28.4%. Since 2004, Canada's overall service sector trade deficit has nearly doubled from C\$11.5 billion to C\$22.5 billion; likewise, the service sector deficit with the United States also nearly doubled from C\$7.3 to C\$14.5. U.S. travelers accounted for 48% of Canada's travel and tourism receipts in 2008; Canadians spent 57% of their tourist dollars in the United States that year.¹³

¹² U.S. Bureau of Economic Analysis, *Survey of Current Business*, October 2008; Statistics Canada, Balance of International Payments - Fourth Quarter 2008, Table 18. Available at <http://www.statcan.gc.ca/pub/67-001-x/67-001-x2008004-eng.pdf>.

¹³ Statistics Canada, Balance of International Payments, Table 17, Table 60.

Figure 1. Merchandise U.S. Trade Deficit with Canada

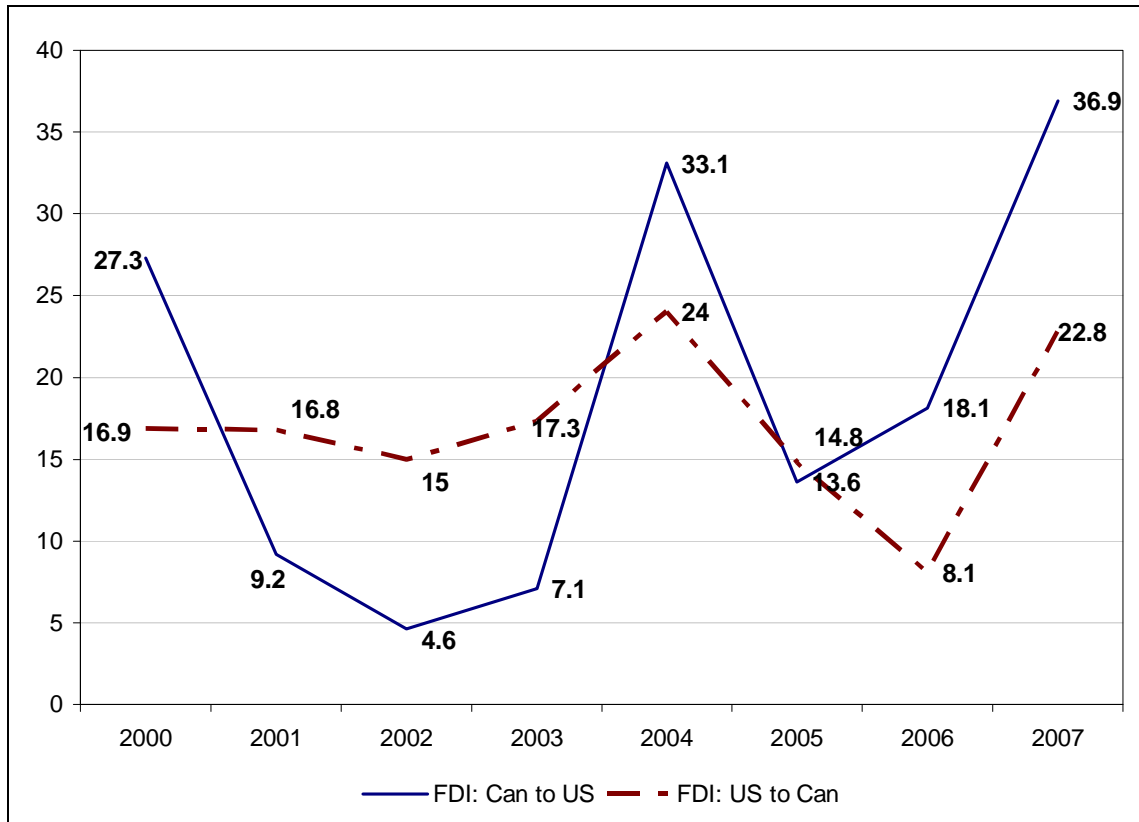
Source: U.S. International Trade Commission

Investment

The U.S.-Canada economic relationship is characterized by substantial ownership interests in each nation by investors of the other. The United States is the largest single investor in Canada with a stock of \$257.1 billion in 2007, a figure that has nearly doubled since 2000. (See Figure 3) This figure represents 9.2% of U.S. direct investment abroad (DIA), and U.S. investors accounted for 58% of the stock of inbound foreign direct investment (FDI) in Canada in 2007.¹⁴

Manufacturing, finance/ insurance, and mining/energy are the three largest categories of U.S. FDI in Canada. Canada had a prominent (though not the largest) FDI position in the United States at \$213.2 billion, 10.1% of the total FDI stock in the United States in 2007. The United States is the most prominent destination for Canadian DIA, with a stock of 43.9% of total Canadian DIA in 2007.

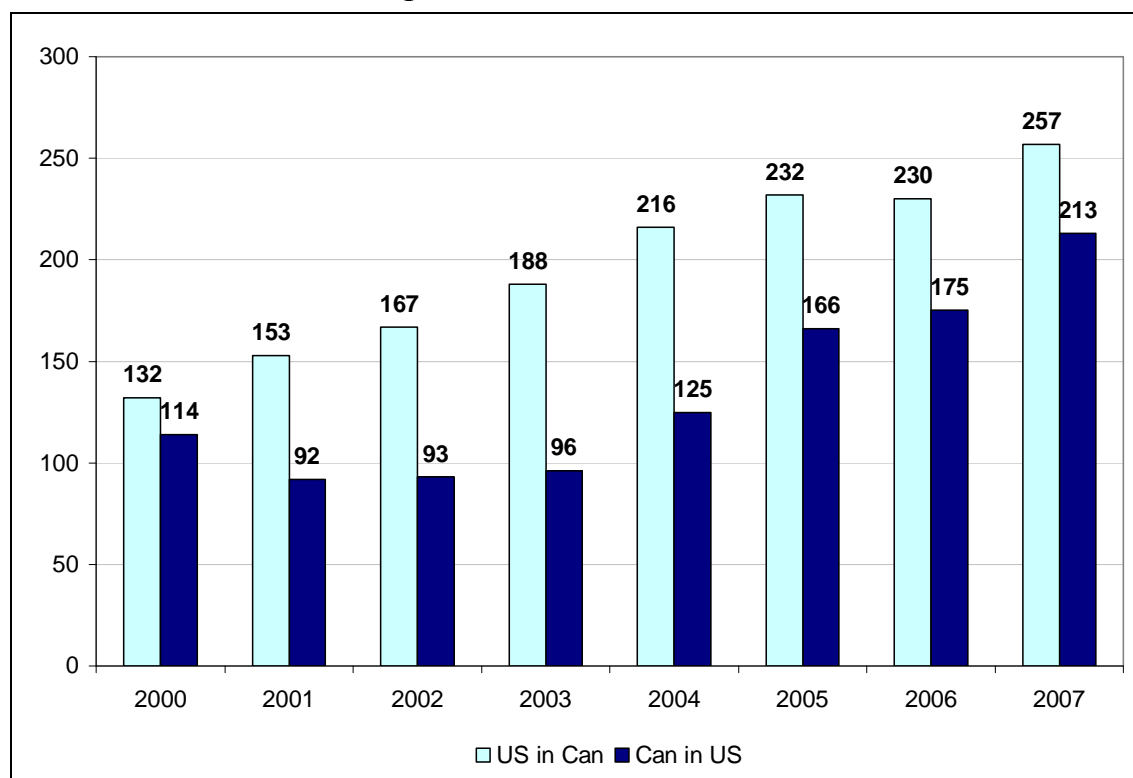
¹⁴ BEA, *Survey of Current Business*, July 2008; Statistics Canada, *The Daily*, May 6, 2008, <http://www.statcan.gc.ca/daily-quotidien/080506/dq080506b-eng.htm>

Figure 2. FDI Flows 2001-2007

Source: U.S. Bureau of Economic Analysis (BEA)

Canada is also highly dependent on FDI. In 2007, FDI represented 32.6% of Canada's GDP, and Canadian DIA represented 33.5% of GDP¹⁵, both figures up from about 20.0% in 1995. Flows of FDI, which have picked up during the early years of the present economic expansion, have slowed again since 2005.

¹⁵ Ibid.

Figure 3. FDI Stock 2001-2007

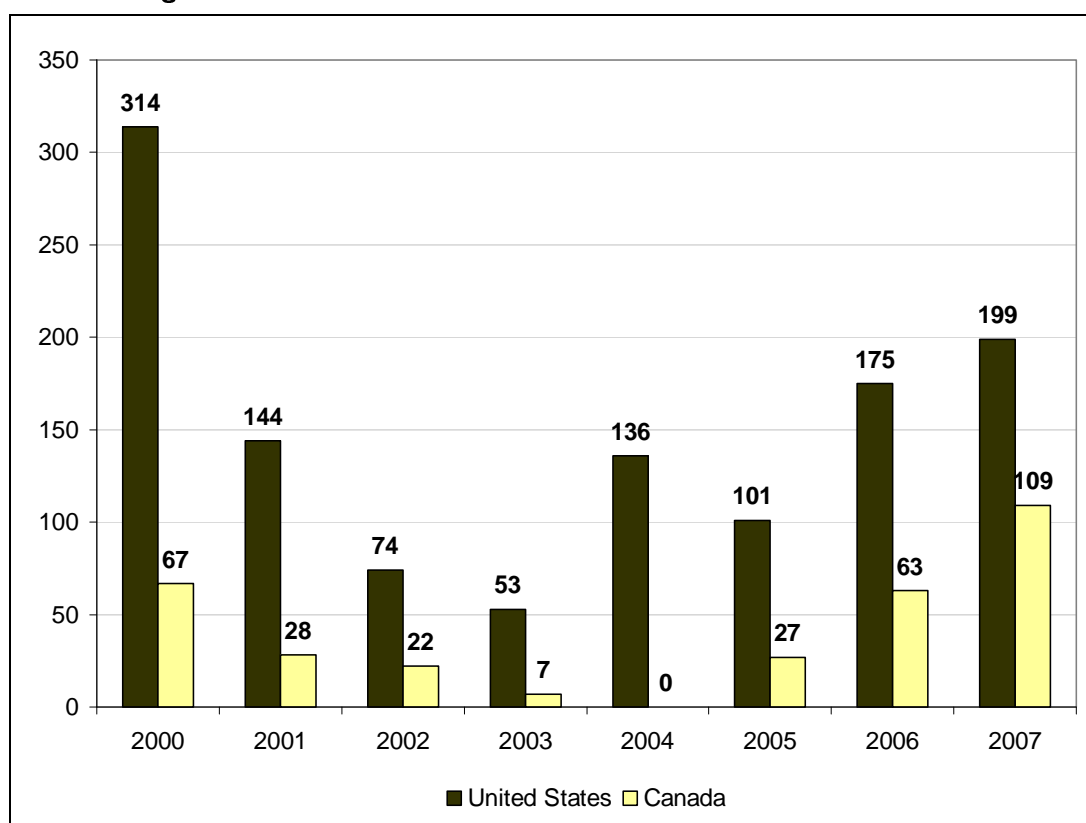
Source: BEA

Canadian FDI Policy

Foreign investment has played a large part in the development of the Canadian economy. British and American capital was instrumental in building Canada's railways in the 19th century and in exploiting its resources in the 20th. Although Canada is generally open to foreign investment, certain restrictions do exist on some forms of FDI. Investment is monitored and some types of FDI are reviewed. "Significant investments in Canada by non-Canadians" are reviewed under the Investment Canada Act to insure "net benefit" to Canada. The review threshold for parties to the World Trade Organization (WTO), including the United States, is \$223 million. All transactions involving uranium production, financial services, transportation services, or cultural business¹⁶ must be reviewed. Net benefit is assessed on such factors as effect on level of economic activity in Canada including employment; the degree or significance of participation by Canadians; the effect of productivity and technological development; the effect on competition; the effect on Canadian competitiveness on world markets; and compatibility with national, industrial, or cultural policies. No investment by a non-resident has been rejected under this authority, but in some instances investments have been altered pursuant to Investment Canada guidance.¹⁷

¹⁶ Cultural business refers to the publication of books, magazines, periodicals or newspapers; production, distribution, or sale or exhibition of film, video recordings, audio or video musical recordings; publication or dissemination of print music; or radio, television, cable, or satellite broadcasting.

¹⁷ C.D. Howe Institute, "A Capital Story: Exploding the Myths of Around Foreign Investment in Canada," p. 21.

Figure 4. Net Inward FDI Flows from All Countries: 2001-2007

Source: Economist Intelligence Unit

The last Liberal government of PM Paul Martin introduced legislation to provide for a review of foreign investment for national security concerns. Under the legislation (Bill C-59, which received first reading on June 20, 2005), any direct or indirect investment can be subject to additional review under the Investment Canada Act if it could be “injurious to national security,” although that phrase is not further defined. An investment found to be “injurious” could be blocked or conditions could be placed on the transaction. Critics claim that the bill would introduce uncertainty into the investment process, at a time when investment in Canada is declining.¹⁸ The measure was not acted upon. Others warn that diversion of resources through increased FDI such as Chinese investment in the oil sands could have political implications for U.S.-Canadian relations.

Disputes

Both the United States and Canada are considered to have relatively open and transparent trading regimes. Both are signatories to the World Trade Organization (WTO) and are bound together by the North American Free Trade Agreement. However, irritants in the relationship do exist and

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“Bill C-59: Foreign Investment Will Become Unpredictable and Politicized if Ottawa Caves into Vague National Security Concerns,” *National Post*, July 19, 2005.

each party has issues with the way the other conducts the bilateral trade relationship. Some disputes have been adjudicated by WTO and NAFTA dispute settlement procedures and others have been the subject of regulatory actions by the United States or Canada.

Softwood Lumber

On April 27, 2006, the United States and Canada reached an agreement to resolve the longstanding softwood lumber dispute, perhaps the most intractable trade dispute between the two nations.¹⁹ This agreement, however, has now become the subject of arbitration between the two countries. The 2006 agreement was signed in Ottawa on September 12 by USTR Susan Schwab and Canadian Trade Minister David Emerson. The agreement was implemented on October 12, 2006. This follows a summer in which the Canadian government of Prime Minister Stephen Harper enlisted support for the agreement among Canadian provinces and among what he called “a clear majority” of the Canadian lumber industry.²⁰ The Canadian Parliament approved legislation implementing the agreement on December 14, 2006.

The present incarnation of the dispute began when the Softwood Lumber Agreement (SLA) between the United States and Canada expired on April 1, 2001. This agreement, implemented in 1996, set a tariff rate quota on exports of softwood lumber to the United States from four Canadian provinces at 14.7 billion board feet per year and set fees for exports in excess of that amount. U.S. lumber producers contend that Canadian provinces subsidize their lumber industry by charging less than market value for lumber harvested in the form of stumpage fees and other practices. U.S. timber and environmental groups have also expressed concern about Canadian forestry management and clear-cutting practices and allege that such practices lead to dumping. The Canadian government has rejected these allegations and has demanded free trade in lumber. It has asserted that Canadian mills have modernized and are more efficient than U.S. operations.

The SLA ends all antidumping and countervailing duty litigation and return \$4 billion of the estimated \$5 billion in antidumping and countervailing duties collected since 2002 to the Canadian lumber industry. The remaining \$1 billion was split; half went to U.S. lumber companies and the rest was used for a joint North American lumber initiatives and other “meritorious initiatives,” such as possible Katrina rebuilding efforts.

The Canadian government implemented a supply management system for its lumber exports involving export taxes and quotas based on the price of lumber. Under the agreement, if the price of lumber remains above \$355/thousand board feet, no quotas or tariffs would be imposed. If prices fall below this threshold, each province could either choose to pay a sliding-scale export tax that would increase as the price falls, or pay a smaller tax along with agreeing to a market share limitation based on a province’s share of total exports to the United States. Under the former, provincial producers would pay a sliding-scale export tax of 5% if prices fall below \$350, 10% if prices fall below \$335, and 15% if prices fall below \$315. Under the hybrid methodology, each province has a share of the U.S. market. Thus, if the benchmark price falls below \$355, each province’s exports would be capped at its share of 34% of the U.S. market with an export tax of 2.5%, its share of 32% of the U.S. market combined with a tax of 3% at prices below \$335, and its share of 30% of the U.S. market with a 5% tax at prices below \$315.

¹⁹ For more information, see CRS Report RL33752, *Softwood Lumber Imports from Canada: Issues and Events*, by Ross W. Gorte and Jeanne J. Grimmett.

²⁰ “Canadian Softwood Industry Support Enough for Deal to Proceed,” *International Trade Reporter*, August 24, 2006.

The agreement lasts for seven years with an option of a two year renewal. Maritime provinces (which have private timber ownership) and other producers not engaged in the litigation are exempt from the agreement. The agreement also provides for a surge mechanism if exports from a Canadian province exceed 110% of its allocated share. Conversely, if third country exports to the United States increase by 20% in two consecutive quarters, Canadian market share decreases, and U.S. market share increases, Canada is authorized to refund any export taxes collected in that quarter.

Generally, proponents of the agreement view it as the best deal that could be obtained by negotiation. To proponents, the alternative was continuing litigation, with its inherent risk and uncertainty to each side. Through various restrictive mechanisms, U.S. producers would be able to avoid free trade in lumber with Canada, which, they maintain, continues to subsidize its producers through provincial ownership of Crown lands. U.S. producers would also be able to keep about 10% of the duties collected by the U.S. government despite a Court of International Trade ruling that the Byrd Amendment did not apply to duties collected from NAFTA countries (see below). Canadian proponents point out that Canadian producers would get most (80%) of their antidumping and countervailing duties back. They contend that while trade is still managed, proceeds of an export tax would be retained in Canada, rather than paying antidumping and countervailing duties to the United States. Proponents in Canada noted that unless lumber prices drop below the \$355 benchmark, there will be no restrictions on the U.S. market. While prices were above that level around the time the agreement was proposed, subsequently, lumber prices have fallen dramatically. With lumber prices around \$270 on the date of implementation (October 12, 2006), and have fallen further since due to the housing industry collapse, the full 15% export tax has always been applied.

Opponents of the deal include consumers of softwood lumber, such as U.S. homebuilder and homebuyer groups, and Canadian opposition parties. The former claim that the deal will hurt consumers through higher prices for new homes and materials for renovation. Canadian opposition leaders attacked the deal as a “sell-out”²¹ to U.S. lumber interests. Some claim that the agreement scuttles that NAFTA dispute settlement process, which they believe would have provided Canada with an eventual victory in the dispute.

Arbitration

In April 2007, the United States requested consultations with Canada on various aspects of the agreement. The United States sought clarification of several forest sector assistance programs providing grants, loans, and tax credits by the Canadian federal government and the provinces of Quebec and Ontario. The United States has also expressed concern about the administration of the surge mechanism, claiming that Canada has not adjusted its export level triggers to reflect actual consumption in the United States market. If Canada had done so, the United States claims, additional export taxes would have been collected from lumber producers in British Columbia and Alberta, provinces subject only to export taxes, and the quota would have been lowered for provinces using the mixed quota-export system (Ontario and Quebec). On August 13, 2007, the United States made a formal request for arbitration on the export tax-quota issue and submitted its first written arguments on October 19. On March 4, 2008, the London Court of International Arbitrators agreed with the United States that Canada had not adjusted the trigger (surge) levels in a timely manner, disagreeing with Canada’s contention that the adjustment triggers were intended

²¹ New Democratic Party leader Jack Layton, in “Revised Deal Ends Lumber Dispute,” *Toronto Star*, April 28, 2006.

to take effect on July 1, 2007 rather than January 1 of that year. However, the arbitrators also decided that the western provinces that collect only export taxes did not have to adjust their trigger volumes based on a reading of the SLA. Because of this, Canada did not have to collect an extra \$75 million in export taxes from B.C. and Alberta. The arbitrators, whose ruling is final, rejected the U.S. position that such adjustments had to be made regardless of whether the provinces used the export tax or export tax and quota option.²²

To cure the breach for the failure of Canada to operate its adjustment mechanism from January 1, 2007, the parties again resorted to arbitration. On February 26, 2009, LCIA decided that Canada must impose an extra 10% ad valorem tariff on Eastern Canadian shipments until C\$68.26 million) is collected as compensation. After failing to ‘cure the breach’ within the time allotted by LCIA (March 28, 2009), Canada offered C\$46.7 million (\$36.66 million) - the amount the United States claimed as its industry’s loss- directly to the United States. In response, the United States levied 10% tariffs on affected softwood shipments to raise the amount of compensation ordered by the LCIA. Meanwhile, Canada has sought arbitration over its offer to cure the breach.²³

Some members of Congress have criticized the enforcement of the SLA. For example, Senator Snowe has called for a licensing system to require that importers of Canadian lumber certify that shipments are entering in compliance with the SLA.²⁴ On April 17, 2008, U.S. Customs and Border Protection issued a final rule that prescribes the collection of certain entry data for lumber imports to the United States in order to monitor compliance with the SLA.²⁵ The 2008 Farm Bill (P.L. 110-246, Title III) requires the U.S. Department of Agriculture to establish a program for importers to declare on customs forms that their imports comply with the relevant softwood lumber import programs.

The United States also requested arbitration over the six provincial assistance programs on January 18, 2008 although it did not seek arbitration over the Federal Industry Long-Term Competitiveness Initiative, a source of concern in the initial consultations.²⁶ At the same time, USTR announced that it was seeking information from Canada over a new federally administered “Community Development Trust” designed to help “one-industry towns facing major downturns, or communities plagued by high unemployment, or regions hit by layoffs across a range of sectors,” according to Prime Minister Stephen Harper.²⁷ Some fear this mechanism may provide support to the Canadian lumber industry in contravention of the SLA.

²² “Softwood Lumber Arbitration on Surge Provisions Yield Split Decisions,” *Inside U.S. Trade*, March 7, 2008; “Canada, U.S. Continue to Disagree Over Arbitration Ruling on Softwood Lumber,” *International Trade Reporter*, March 6, 2008.

²³ “United States to Impose Customs Duties on Some Softwood Lumber from Canada,” *International Trade Reporter*, April 7, 2009.

²⁴ “Snowe Discusses Softwood Lumber Issues at Pleasant Valley Lumber Facility in Dover-Foxcroft,” Press Release, March 17, 2008

²⁵ “Entry of Softwood Lumber Products from Canada,” 73 *Federal Register* 20782, April 17, 2008.

²⁶ “U.S. Requests Arbitration with Canada on Assistance Programs,” *Inside U.S. Trade*, January 25, 2008.

²⁷ quoted in “Canadian Aid Plan for Embattled Industries Draws U.S. Fire as Subsidy for Lumber Sector,” *International Trade Reporter*, January 17, 2008.

Country of Origin Labeling

The 2002 Farm Bill required retailers to provide country-of-origin labeling (COOL) for fresh produce, red meats, seafood, and peanuts. The requirements for seafood were implemented on September 30, 2004, but COOL requirements for other products were delayed until September 30, 2008. The 2008 Farm Bill, The Food, Conservation, and Energy Act of 2008 (P.L. 110-246), reaffirmed this timetable and added goat meat, chicken, ginseng, pecans, and macadamia nuts as covered commodities. A final rule was issued on January 15, 2009, effective March 16, 2009. On May 7, 2009, Canada sought consultations under WTO dispute settlement concerning the rule. Canada claims the rule is a non-tariff barrier that has led to a steep drop in beef and hog shipments to U.S. processors.

Buy American Stimulus Provisions

The Buy American provision of the American Recovery and Reinvestment Act of 2009 (ARRA, Sec. 1605, P.L. 111-5) states that no funds shall be appropriated for building projects or public works projects unless all the iron, steel, and manufactured goods are made in the United States. This provision was subject to three discrete waivers: (a) applying this policy would not be in the public interest, (b) the iron, steel or manufactured products are not produced in sufficient quantities or of a satisfactory quantity in the United States, or (C) the inclusion of the applicable U.S. products would increase the cost of the overall project by more than 25%. The Senate added language to ensure that the provisions are applied in a manner consistent with U.S. trade obligations.

With regard to Canada, the United States has undertaken government procurement obligations under the World Trade Organization's (WTO) Agreement on Government Procurement (AGP) and under the North American Free Trade Agreement (NAFTA). The AGP is a plurilateral agreement that only binds those WTO members that agreed to undertake obligations under it. Furthermore, the AGP only applies to the sectors and the procurement agencies that the national government and sub-national agencies includes in its schedule of national commitments. NAFTA contains similar commitments on the national level, but excluded sub-national entities.

Both the United States and Canada have undertaken extensive obligations to open their government procurements at the national level under both agreements. Thus Canada firms may bid on ARRA-related federal procurement under the provisions of the AGP. Under the AGP, 37 U.S. states as well as other government entities such as the Tennessee Valley Authority and the Port Authority of New York and New Jersey have made commitments under the AGP. By contrast, Canada has not undertaken any government procurement obligations on behalf of its provinces. Likely for this reason, guidance from the Office of Management Budget implementing the Buy American provisions excluded Canadian firms from bidding on ARRA-financed contracts that are tendered by the states that are party to the agreement.²⁸ International Trade Minister Stockwell Day has criticized this exclusion claiming, "there are provisions being put in place which are effectively closing the door to procurement from Canadian companies, suppliers

²⁸ Office of Management and Budget, "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009, April 3, 2009. pp. 160-166.

and producers...where people at the municipal level feel they have no choice but to go with U.S. only products and services." ²⁹

Intellectual Property Rights

In 2009, the U.S. Trade Representative elevated Canada on its Special 301 report on intellectual property rights protections to the priority watch list for intellectual property rights protections for the first time.³⁰ The priority watch list indicates that the listed trading partner has problems with respect to IPR protection, enforcement, or market access for persons relying on intellectual property and that these problems merit "increased bilateral attention." In this designation, Canada joins such notorious IPR violators as China and Russia. The United States again urged Canada to implement the World Intellectual Property Organization's Copyright treaty, which has been signed but not ratified by Canada.³¹ The United States also expressed concern about trade in pirated and counterfeit goods in Canada, as well as the transshipment and transiting of such goods. The United States urged Canada to adopt tougher border security measures to crack down on this trade, including allowing for the seizure of pirated and counterfeit goods by customs agents without a court order. However, USTR commended Canada for cooperation on bilateral and multilateral IPR initiatives, including the proposed Anti-Counterfeiting Trade Agreement (ACTA).

Agriculture Subsidies

On December 17, 2007, the WTO established a combined panel at the request of Canada and Brazil over U.S. trade-distorting farm subsidies. The request alleges that these subsidies, known in WTO parlance as 'amber-box' subsidies, exceeded the levels allowed in years 1999-2002 and 2004-5. Under the WTO Agreement on Agriculture, the United States is permitted \$19.1 billion in these types of subsidies. Canada alleges that certain subsidies the United States claims as non-trade-distorting properly should be classified as trade-distorting subsidies, and that if they were, the United States would breach its WTO subsidy level commitments. This request supersedes an earlier one filed by Canada in June 2007 that also challenged U.S. export credit guarantees. That issue is not included in the current request. No further action has been taken in this case.³²

Culture

Canada has long been concerned that its culture is in danger of being overwhelmed by that of the United States, which, in terms of population and GDP, is about ten times the size of Canada. Claiming a need to maintain its cultural identity, Canada has implemented regulations to promote

²⁹ "U.S. protectionism a threat to North America: Stockwell Day," Financial Post, April 29, 2009.

³⁰ United States Trade Representative, 2009 Special 301 Report, p. 17. Available at [http://www.ustr.gov/assets/Document_Library/Reports_Publications/2009/2009_Special_301_Report/asset_upload_file500_15612.pdf]

³¹ The WIPO Copyright treaty updates existing copyright protections for Internet and other electronic media.

³² For further information, see CRS Report RL34351, *Brazil's and Canada's WTO Cases Against U.S. Agricultural Support*, by Randy Schnepf.

Canadian ownership of film distribution; to encourage Canadian content in radio/TV programming; and to restrict the distribution of foreign magazines. The United States has challenged many of these restrictions, arguing that such laws are disguised protection that denies opportunities to U.S. firms. Canada had its cultural industries exempted from NAFTA, subject to extra U.S. retaliatory rights, and has resisted attempts to include cultural industries in WTO negotiations.

Security and Trade

The aftermath of the terrorist attacks on the United States on September 11, 2001 has increased scrutiny of the Canadian border as a possible point of entry for terrorists or for weapons of mass destruction. The potential for economic disruption caused by a terrorist attack on border infrastructure or as a result of a border closure is large. For example, the Ambassador Bridge that links Detroit and Windsor, Ontario is the largest trade link in the world, with more than 7,000 trucks crossing daily carrying goods worth more than \$120 billion per year.

The cost of the border to carriers, manufacturers and governments in terms of delays and compliance has been estimated by one survey at \$7.5 billion to \$13.2 billion annually.³³ Using the survey's midpoint estimate, they estimate that costs related to transit time and uncertainty total \$4 billion and trade policy related costs were estimated at \$6.28 billion.³⁴ The total midrange figure, \$10.3 billion, reflected 2.3% of cross-border trade in 2004. Another report claims that average processing times have increased 200% from 45 seconds in December 2001 to 2.15 minutes in December 2004. This report also claims that additional reporting, compliance, and delays add approximately \$800 to the cost of every North American produced vehicle and that the border "threatens to become the greatest non-tariff barrier the world has ever seen."³⁵ However, a July 2007 study indicated that increased border security has not affected Canadian export volumes to the United States through most land ports, although the study found evidence that substitution between ports may have occurred.³⁶

Western Hemisphere Travel Initiative (WHTI)

A provision of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458), the WHTI required all travelers from Canada and Mexico to present a passport or another form of secure documentation to enter the United States starting January 1, 2007, for air travelers, and starting a year later for land passage. Currently, most land travelers enter with a driver's license or other form of government identification. While travelers could use existing passports to cross the border, estimates vary widely on how many citizens of each country hold them. In response, the Department of Homeland Security (DHS) and the Department of State (DOS) announced the establishment new form of identification known as the People Access Security Service (PASS)

³³ George Jackson, Douglas Robideaux, and John Taylor, "The U.S.-Canada Border: Cost Impacts, Causes, and Short to Long Term Management Options." Available online at http://www.fhwa.dot.gov/uscanada/studies/taylor/cost rpt_2003.pdf.

³⁴ Ibid.

³⁵ Coalition for Secure and Trade-Efficient Borders, "Rethinking Our Borders: A New North American Partnership," July 2005, available at http://www.cme-mec.ca/pdf/Coalition_Report0705_Final.pdf.

³⁶ Conference Board of Canada, *Tighter Border Security and Its Effect on Canadian Exporters*, June 2007.

card. This card would resemble many current driver's licenses, but would contain a biometric identifier and provide documentation of citizenship. Concerns have been expressed by the Canadian government, by some business organizations on both sides of the border, and by some members of Congress that the measure will impede travel and trade on the northern border. Some fear that many border-area residents will not obtain the PASS card and will no longer make routine trips across the border as they do currently.

The FY2007 Homeland Security Appropriations Act (P.L. 109-295) directed the Secretary of Homeland Security, in consultation with the Secretary of State, to develop a plan to implement the WHTI and to certify to Congress that certain criteria (standards for the card, the fee for the card, technology sharing with Canada and Mexico, and installation of infrastructure and training at border crossing to process the cards) included in the act are met (Sec. 546). The act provides for the program's implementation by the earlier of three months of the certification or June 1, 2009. In December 2007, the Consolidated Appropriations Act of 2008 (P.L. 110-161) amended that language to provide that the plan shall not take effect until the later of three months after the certification of the plan or June 1, 2009. Nonetheless, DHS tightened the requirements on the on January 31, 2008 to require written documentation of citizenship such as a passport or both a birth certificate and driver's license to denote identity and citizenship.³⁷

Action Programs and Initiatives

In order to address what became a threat of border disruptions, the two governments agreed on December 12, 2001 to a (now) 32-point Smart Border Action Plan consisting of 4 pillars: the secure flow of people, the secure flow of goods, a secure infrastructure, and coordinated enforcement and information sharing. The pillar concerned with the flow of goods consists of initiatives on harmonized commercial processing, clearance away from the border, joint or shared customs facilities, enhancement of information sharing, container targeting at seaports, and infrastructure improvements. This initiative was updated in the NAFTA context by the **Security and Prosperity Partnership of North America (SPP)**. The SPP was launched at a summit of the leaders of the three countries at Crawford, Texas on March 24-25, 2005. The initial harvest of security results included border improvements, land preclearance measures, and joint port security exercises, many of which are follow-on to the 32-point Action Plan.³⁸ The leaders met again in Cancun, Mexico, in March 2006, Montebello, Quebec in August 2007, and New Orleans, Louisiana in April 2008.³⁹

The Free and Secure Trade (FAST) is a joint program implementing the harmonized commercial processing initiative. It is open to participants in the U.S. Bureau of Customs and Border Protection's (CBP) Customs-Trade Partnership Against Terrorism (C-TPAT) and the Canadian Border Security Agency's Partners in Protection (PIP) Program. Participants of these programs undertake audit-based compliance measures to enhance security along the supply chain and receive certification as low-risk shippers. Since 2003, CBP has validated over 6,900 companies in the C-TPAT program.⁴⁰ The FAST program provides for dedicated inspection lanes

³⁷ DHS Press Release, January 18, 2007, http://www.dhs.gov/xnews/releases/pr_1200669485238.shtm

³⁸ "NAFTA Ministers to Review Proposals for Integrating Economies," *Inside U.S. Trade*, May 13, 2005.

³⁹ For further information, see CRS Report RS22701, *Security and Prosperity Partnership of North America: An Overview and Selected Issues*, by M. Angeles Villarreal and Jennifer E. Lake.

⁴⁰ U.S. Customs and Border Protection (CBP), *Customs-Trade Partnership Against Terrorism: A Year in Review*, January 31, 2008

to goods carried by approved lower-risk shippers, to goods purchased from pre-authorized importers, and to goods transported by pre-authorized drivers and carriers. FAST transit points are operational at 21 high-volume land ports of entry on the northern border. According to CBP, more than 87,000 commercial drivers were enrolled in the program as of April 2008.⁴¹

A complementary program to expedite the secure movement of people has also been established. The **NEXUS program** provides an identification card and dedicated traffic lanes to frequent travelers who have undergone security clearances on both sides of the border. The NEXUS is seen as especially important to minimize the disruption of cross-border trade in services, which relies on the free movement of skilled labor. NEXUS was utilized by 265,000 participants and was operational in 16 high-volume border land crossings, 8 airports in Canada, and 33 marine crossings by January 2009.⁴² Also, according to CBP, the NEXUS card will constitute a valid form of identification for the WHTI.

The 32-point action plan also called for increased monitoring and targeting of containers off-loaded at Canadian and U.S. ports in transit to the other nation. The U.S. Container Security Initiative (CSI) is designed to prescreen high risk containers entering the United States at overseas ports of departure. The program is working to develop security criteria to identify high risk cargo, to develop and utilize technology to pre-screen high risk containers and to encourage the use of secure containers. U.S. customs agents work alongside Canadian agents in the CSI ports of Halifax, Montreal, and Vancouver to identify cargo for screening. Canadian customs agents are stationed in the ports of Newark and Seattle-Tacoma. These agents have no enforcement power on the other country's territory; they serve in an advisory capacity.

The Canadian government has implemented a package of port security initiatives that included increased screening of marine traffic, "real-time" identification and monitoring of vessels in Canadian waters, radiation screening equipment for containers, and enhancements to portside Emergency Response Teams of the Royal Canadian Mounted Police. These initiatives respond to concerns within Canada that differences in port security were affecting the ability of Canadian ports to compete as entry points for goods eventually entering the U.S. market. The United States and Canada have also reached agreement on a program of increased screening and monitoring of railway shipments between the two countries. Under this program, railcar cargo detection equipment known as the Vehicle and Cargo Inspection System (VACIS) has been installed at seven rail crossings in the United States and one in Canada.

Land preclearance away from the border by U.S. and Canadian customs agents working in each other's territory remains a contentious issue. Although a jointly commissioned study has detailed the operational benefits of cross-border operations, several legal and institutional issues remain unresolved including land ownership, the enforcement powers of such agents and their ability to carry firearms. However, negotiations to implement a pilot program at the Peace Bridge crossing at Buffalo-Fort Erie reportedly broke down in May 2007 over fingerprinting of Canadians who approach but decide not to cross the border.⁴³ Canadian law does not allow for fingerprinting unless a person is charged with a crime or volunteers to be fingerprinted.

⁴¹ CBP, Free and Secure Trade Factsheet, http://www.customs.gov/linkhandler/cgov/newsroom/fact_sheets/travel/fast/fast_fact.ctt/fast_fact.pdf

⁴² CBP, NEXUS Factsheet, http://www.customs.gov/linkhandler/cgov/newsroom/fact_sheets/travel/nexus_fact.ctt/nexus_fact.pdf

⁴³ "Shared Inspection Plaza Concept Dropped," *Buffalo News*, 26 April 2007.

A related issue is the ability of the transportation infrastructure to cope with increased security measures. The aging condition and limited capacity of the land border infrastructure preceded the terrorist attacks on September 11, 2001. The Ambassador Bridge and the Detroit-Windsor Tunnel, which together carry 25% of total U.S.-Canada cross-border traffic, both opened in 1930. The Peace Bridge linking Buffalo NY and Niagara, Ontario was opened in 1927 and is 3 lanes wide. Approaches to the bridges, often city streets, have been criticized as inadequate to the commercial needs of the 21st century.

This issue, in turn, affects the efficient implementation of security measures. The FAST system provides for dedicated lanes at land border ports for expedited preclearance. However, these lanes will not save time if the FAST participant cannot access this lane due to congestion or delays at the points of access. The SPP completed a pilot program that attained a 25% improvement in border crossing times at the Detroit-Windsor gateway in December 2005, yet the aging and adequacy of the border infrastructure may affect whether such improvements are sustainable. The new Detroit River International Crossing (DRIC) south of the Ambassador Bridge north of Zug Island on the Michigan shore and Brighton Beach on the Ontario shore received the approval of the Federal Highway Administration on January 14, 2009. Construction of a new border inspection plaza, bridge and interchange may begin in 2010, and the new crossing may open by 2013.⁴⁴

Prospects and Policy Options

The terrorist attack of September 11, and its aftermath, have sparked a wide-ranging debate in Canada over its relationship with the United States, including the feasibility or desirability of furthering the process of North American integration. The extent to which the two economies are integrated was dramatized by the adverse impact that border closings had on trade flows after the terrorist attacks. While concerns in the United States over the U.S.-Canada border are focused primarily on border security and immigration issues, the debate in Canada has become much broader, encompassing such issues as the nature of sovereignty, the desirability and feasibility of further economic integration with the United States, and even the adoption of the U.S. dollar. This discourse is not unusual in Canada; questions concerning relations with the United States continually loom large in policy discussions. Such discussions are unusual in the United States, and at this point they are generally confined to the types of security measures described in the preceding section.

Certain aspects of increased cooperation with the United States on border and immigration issues have proved controversial to some Canadians. These questions generally have taken the form of resistance in some quarters to the notion of harmonization of U.S. and Canadian regulations. A segment of Canadian public opinion fears that, due to the wide disparity in population and economic power of the two nations, harmonization of customs and immigration regulations would inevitably lead to adoption of U.S. standards, and implicitly, the policies behind them. Moreover, according to this view, Canadian resistance to this harmonization could imperil the economic relationship with the United States. However, others contend that Canadian and U.S. regulations affecting the border are more similar than different and would be for the most part compatible. Hence, the scope of coordination in certain areas of border management may be acceptably encompassed by mutual recognition of each other's regulations.

⁴⁴ Detroit River International Crossing Project, <http://www.partnershipborderstudy.com/>.

Others in Canada believe the lesson from September 11 is that increased cooperation with the United States is both necessary and inevitable, given the reality of Canadian trade flows and economic interdependence. Yet, they believe such integration must be managed to assure Canada protects its interests and its sovereignty. Several economic options have received renewed attention in Canadian policy circles, from greater regulatory harmonization to more long-term options including a security perimeter, a *customs union*, a *common market*, or a *monetary union*. The latter also received attention due to the long-term slide of the Canadian dollar up to 2002. However, the appreciation of the Canadian currency by 30% against the U.S. dollar since has eclipsed such discussions. These concepts are not new, and they have been discussed in conjunction with “deepening” the North American Free Trade Agreement. Consequently, these discussions often involve Mexico as well.

NAFTA Plus

There has been renewed discussion of ways to enhance cooperation between the three NAFTA partners. The concept of deepening NAFTA—“NAFTA plus”—has taken on added salience, in some quarters, since most of the gains resulting from tariff reduction of the agreement have been realized. In addition, FTAs negotiated by the United States and Canada with other trading partners have diminished the relative advantage of NAFTA. In addition, since the 2001 terror attacks there has been a perception by some in Canada and Mexico that continued economic access to the U.S. market is dependent on greater security cooperation with the United States. Former U.S. Ambassador Paul Cellucci notably said in 2003 that “security trumps trade” in the U.S.-Canada relationship.⁴⁵ This realization has led to many border initiatives described above.

The Security and Prosperity Partnership (SPP), contains many initiatives that could lead to some measure of regulatory harmonization among the United States, Canada, and Mexico. In addition to calling for implementation of common border security strategies, the SPP initiates cooperation in energy, the transportation network, financial services, and standards harmonization. Ten Ministerial working groups were formed and were required to report after 90 days, and semi-annually thereafter. Reportedly, the scope of SPP activity is in the realm of regulatory changes, actions that do not require legislative activity.⁴⁶

The initial report was released on June 27, 2005. The Prosperity component of the SPP intends to enhance competitiveness by developing proposals to streamline regulatory processes among the three partners, enhance detection and prevention of counterfeiting and piracy, and liberalize rules of origin. Sectoral initiatives on steel, autos, energy, air transport, and e-commerce are also envisioned. Quality of life cooperative initiatives on pollution, agriculture and food supply, and health issues were also launched.⁴⁷ Since the initial report, the United States and Canada have agreed to facilitate the exchange of information on infectious disease outbreaks, concluded an open sky agreement, and signed a memorandum of understanding on pipeline safety. In June 2006, the three nations launched a North American Competitiveness Council, which is made up of business leaders from each nation who will examine proposals and provide recommendations to improve the competitiveness of North American business in global markets.

⁴⁵ “Cellucci’s Message,” *National Post*, March 26, 2003.

⁴⁶ “NAFTA Ministers to Review Proposals for Integrating Economies,” *Inside U.S. Trade*, May 13, 2005.

⁴⁷ Security and Prosperity Partnership of North America, Report to Leaders, June 2005, http://www.spp.gov/spp/report_to_leaders/index.asp?dName=report_to_leaders

Security Perimeter

One approach envisioned by some U.S. and Canadian business leaders and policy advocates is to create a North American security perimeter. This proposal responds to U.S. fears of terrorism by removing the security functions from the border to the point of first contact of a good or person to North America. Thus, the container landing at the Canadian port of Halifax headed for the United States would be inspected in Halifax, not at the U.S. border, thereby avoiding delays at border choke-points. Pre-screening of passengers would also take place at the point of landing, not at the border. However, a completely seamless border for goods would also require standards harmonization or acceptance of the inspecting party's standards, information sharing on threat assessments, and trust in each party's screening procedures. It also makes the assumption that there are no terrorist threats indigenous to the North American security perimeter.

Customs Union

Another step discussed in policy circles regarding the further integration of the North American economy is the creation of a *customs union*. Members of a customs union commonly eliminate tariffs among themselves, and erect common barriers against the rest of the world. Both the U.S. and Canada have already eliminated all tariffs between each other under NAFTA, and have similar, though not identical, tariff schedules with third countries. Because all customs duties would be paid at port of entry at the perimeter of the customs union, the need for customs agents on the U.S.-Canadian land border to collect revenue would be obviated. However, border agents also enforce immigration, sanitary and phytosanitary, and environmental laws. A customs union does not imply a harmonization or mutual recognition of each nation's regulations. Thus, a national presence at the border would continue to be necessary. It is also unclear in what form current trade remedy practices could be continued under a customs union. Such actions against third countries could continue relatively easily if both sides found it necessary; however, actions against each other would require the continued payment of duties at the border.

Common Market or Economic Union

Deeper integration of the North American economic space would imply some form of common market or economic union. A common market area would add free movement of labor and capital; thus, immigration and investment regulations would need to be harmonized or mutually recognized. In addition to a common tariff policy and free trade in goods and services, a common market would imply free movement of capital and labor. At this point, harmonization of certain investment and immigration issues would need to be agreed upon. A type of economic union approaching that of the European Union would also require harmonized or mutually recognized standards and regulations and perhaps some supranational institutions. Although the United States and Canada share many developed country level standards, this form of integration would still need to be meticulously worked out. For example, would the United States adopt the metric system to fulfill its obligations to harmonize standards? Could the two nations adopt common forestry prices and management policies and thereby help resolve the softwood lumber dispute? Would either nation allow supranational entities to overrule laws passed by Congress or Parliament? These questions illustrate the extent to which North American economic integration would affect the governance of the United States, Canada, and possibly Mexico.

Monetary Union

Another discussion recurrent in many Canadian policy circles is that of monetary union with the United States. This potential goal has been discussed in many forms. The Canadian dollar could be linked in value to the U.S. dollar; Canada could adopt the U.S. dollar; or a new North American currency (called the Amero by one proponent) could replace the U.S. and Canadian dollars, and perhaps the Mexican peso. Generally, talk of monetary union north of the border is strongest during times of relative weakness of the loonie vis-a-vis the U.S. dollar. The recent strength of the loonie has diminished such discussion, although the idea still has some proponents.

Those who support monetary union argue that it would force Canada to make the necessary structural adjustments that would make it more competitive with the United States. In other words, dollarization or a currency union would remove the ability to cushion adverse economic conditions through depreciation of the currency. By tying the loonie to the U.S. dollar or by adopting the dollar outright, Canada would be making the unmistakable commitment to converge with U.S. macroeconomic policy. Then Canada would be able to reap the benefits of U.S. policy, which traditionally have been lower inflation, lower interest rates, and higher levels of growth than Canada has experienced. In addition, the savings in trade transaction costs would be significant for the volume of trade the two nations conduct.

Canadian opponents of monetary union contend that it would lead to an unacceptable loss of political and economic sovereignty. Monetary policy would be dependent on (or tied to) actions of the U.S. Federal Reserve. Thus, the Canadian government would be left with fewer levers to combat inflation or fight recession. In a monetary union in which macroeconomic convergence is reached, this point may not be important. To opponents of monetary union, however, the two economies respond differently to events, and thus need to utilize different adjustment mechanisms. Furthermore, with a population and economy smaller than some Federal Reserve districts, Canada's ability to influence U.S. monetary policy in a monetary union likely would be small.

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